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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,500	02/06/2004	Brett Curry	5001-0432-1	6623

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EXAMINER

LEE, BENJAMIN P

ART UNIT	PAPER NUMBER
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3641

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/773,500	Applicant(s) CURRY ET AL.	
	Examiner Benjamin P. Lee	Art Unit 3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5,10,21-23,25-27 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25-27 is/are allowed.
- 6) ☒ Claim(s) 1,5,10 and 21 is/are rejected.
- 7) ☒ Claim(s) 22, 23 and 29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant has canceled claims 2-4, 6-9, 11-20, 24 and 28, amended claims 1, 10, 21, 25 and 27 and added new claim 29.

Response to Arguments

2. Applicant's arguments with respect to claims 1, 5 and 10-23 have been considered but are moot in view of the new ground(s) of rejection.
3. Claims 1, 5, 10, 21-23, 25-27 and 29 have been examined.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Kleinguenther et al. (U.S. Patent 5305677).
5. In regards to claim 1, Kleinguenther et al disclose the following:
 - a. a barrel having a longitudinal bore and defining thereby a firing axis (item 1 of fig. 2 following);
 - b. a compensator assembly including an attaching means for releasably

attaching said compensator assembly adjacent a muzzle end of said barrel (col. 3, lines 18-25). Note that applicant fails to explicitly disclose in the specification what the "attaching means" are comprised of, so any "attaching means" disclosed by Kleinguenther et al that releasably attaches a compensator assembly adjacent a muzzle end of barrel is sufficient;

- c. a gas discharge port formed only in an upper three quarters of said compensator assembly (items 9 of fig. 2 following). Note that Kleinguenther et al does disclose a compensator assembly with a discharge port this is "formed only in an upper three quarters of the compensator". Applicant is advised that this language merely claims that a port must be formed only in the upper three quarters and not have any portion of "the port" in another part of the compensator;
- d. gas discharge port not being aligned with said longitudinal bore and communicating with an inner bore of said compensator assembly (see fig. 2 following). Note that the compensator walls define an inner bore and the exhaust ports are "communicating" with this inner bore.

2. In regards to claim 5, Kleinguenther et al disclose that the barrel includes a recess formed therein and said attachment means is configured to be releasably accepted within said recess (item 10 of fig. 2 following and col. 3, lines 18-20). Note that the threaded section constitutes a "recess" and the compensator attachment means

is configured to be releasably accepted (screwed) within the recess in the barrel.

3. Claims 10 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Leffel et al. (U.S. Patent 4691614).

4. In regards to claim 10, disclose a compensation system for a firearm compensation system comprising:

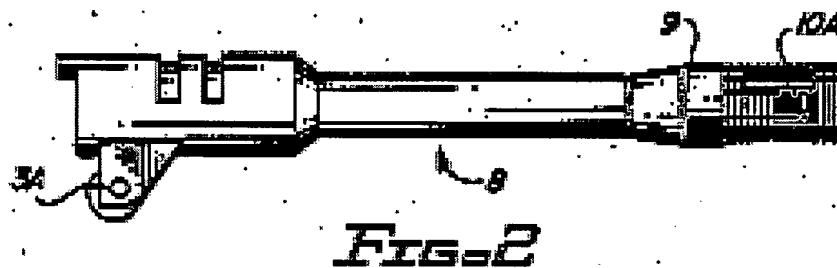
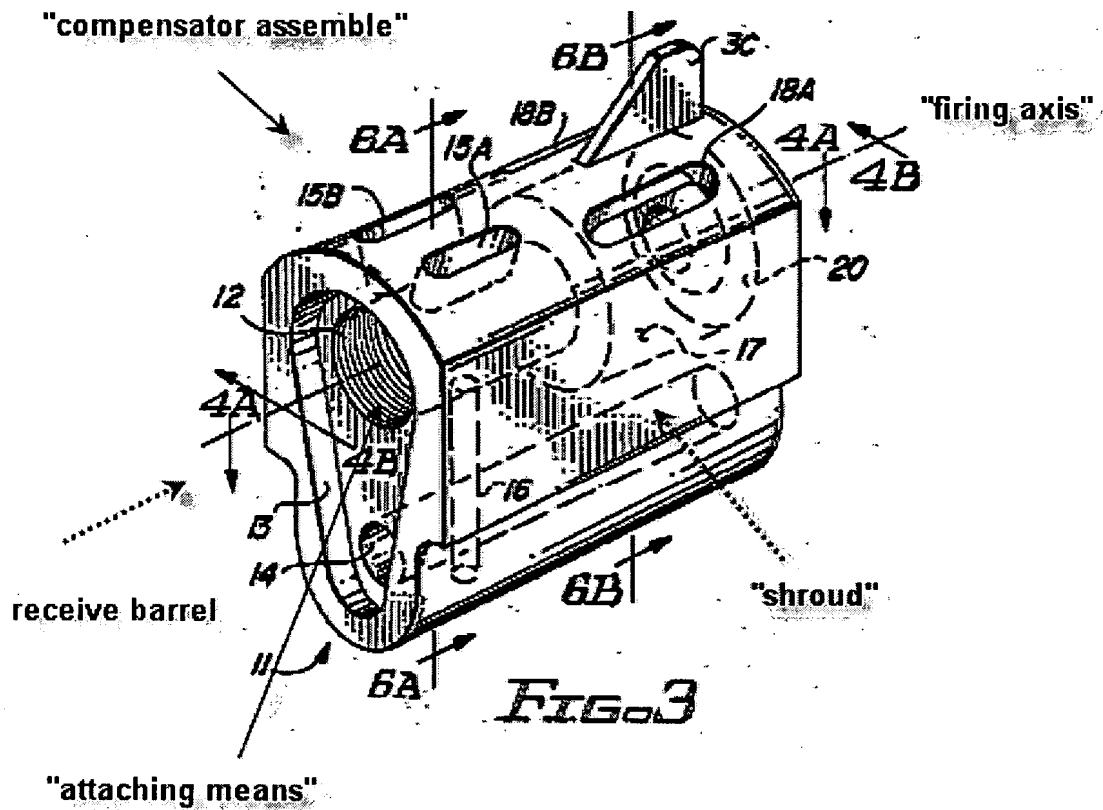
- a. a barrel having a longitudinal bore and defining thereby a firing axis (item 8 of Leffel et al fig. 2 following);
- b. a compensator assembly including an attaching means for releasably attaching said compensator assembly adjacent a muzzle end of said barrel (see Leffel et al figs. 2, 3 and 4B following);
- c. a gas discharge port (items 15A or 15B of Leffel et al fig. 3 following) formed in said compensator assembly, said gas discharge port not being aligned with said longitudinal bore and communicating with an inner bore of said compensator assembly (see Leffel et al fig. 4B following);
- d. said barrel includes a gas aperture (item 10A of Leffel et al fig. 2 following) which is aligned with said gas discharge port when said compensator assembly is attached adjacent said muzzle end of said barrel;
- e. said gas aperture not being aligned with said longitudinal bore (see Leffel et al figs. 2 and 3 following).

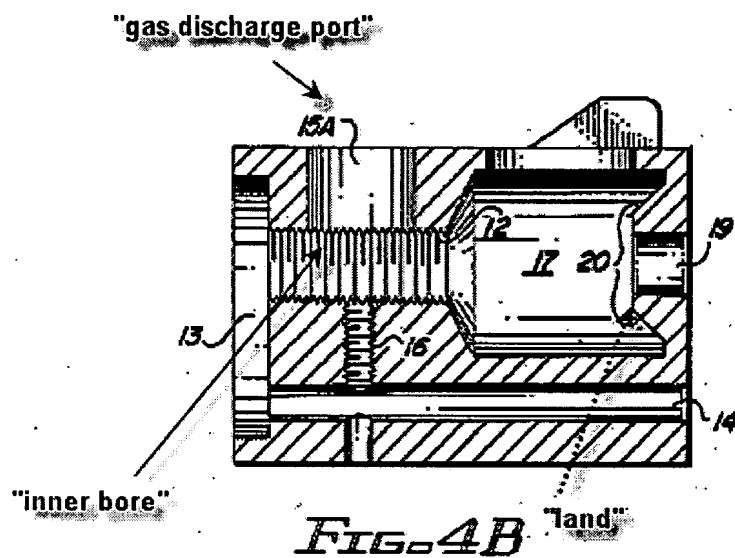
Art Unit: 3641

5. In regards to claim 21, Leffel et al disclose a compensation system for a firearm, said compensation system comprising:

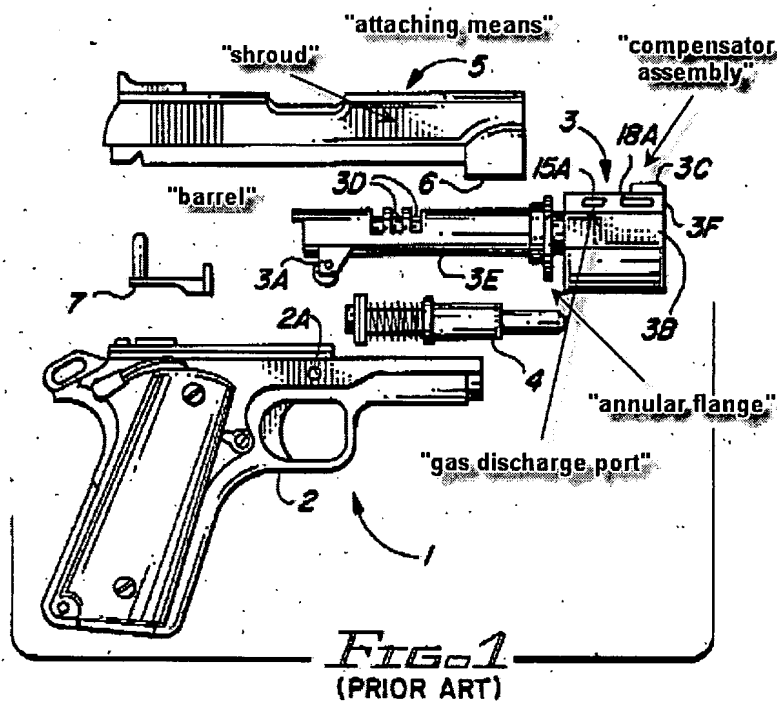
- a. a shroud having a longitudinal bore (item 5 of Leffel et al fig. 1 following);
- b. a barrel releasably housed within said shroud and defining thereby a firing axis (see Leffel et al fig. 1 following), said barrel including an annular flange disposed on a distal end of said barrel for arresting a longitudinal translation of said barrel within said longitudinal bore, said annular flange having a flange diameter which is greater than an outer diameter of said barrel (see Leffel et al fig. 1 following);
- c. a compensator assembly including an attaching means for releasably attaching said compensator assembly adjacent a muzzle end of said barrel (see Leffel et al fig. 1 following);
- d. a gas discharge port (item 15A of Leffel et al fig. 1 following) formed in said compensator assembly, said gas discharge port not being aligned with said longitudinal bore and communicating with an inner bore of said compensator assembly (see Leffel et al fig. 1 following).

Art Unit: 3641





Leffel, et al.



Allowable Subject Matter

6. Claims 25-27 are allowed.
7. Claims 22, 23 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: In regards to claim 22, the closest prior art fails to disclose, in combination with all the limitations of the base claim, that the shroud contains a recess and the attachment means is releasably accepted within the recess. In regards to claim 29, the closest prior art fails to disclose, in combination with all the limitations of the base claim, that the shroud includes a gas aperture which is aligned with the gas discharge port when the compensator assembly is attached adjacent the muzzle end of the barrel.

Summary/Conclusion

8. Claims 1, 5, 10 and 21 are rejected. Claims 22, 23 and 29 are objected to. Claims 25-27 are allowed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

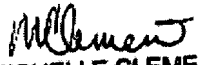
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

Art Unit: 3641

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin P. Lee whose telephone number is 571-272-8968. The examiner can normally be reached between the hours of 8:30am and 5:00pm on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


MICHELLE CLEMENT
PRIMARY EXAMINER